



UNITED STATES PATENT AND TRADEMARK OFFICE

CU
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,073	04/20/2001	Todd C. Sacktor	13492	2721

7590

07/03/2006

Leopold Presser, Esq.
SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, NY 11530

EXAMINER

PAK, MICHAEL D

ART UNIT	PAPER NUMBER
----------	--------------

1646

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/839,073	SACKTOR, TODD C.	
	Examiner	Art Unit	
	Michael Pak	1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 11, 13, and 15 are examined below. Claims 1-10, 12 and 14 have been cancelled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Applicant's arguments filed March 20, 2006, have been fully considered but they are not found persuasive.

Claim Rejections - 35 USC § 102

4. Claims 11 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Ghosh et al. (US 6,268,398) with evidence by Lang et al. (US 2005/0064501).

Ghosh et al. teach the method of administering chelerythrine as kinase inhibitors for therapy of many diseases including Alzheimer's disease, diabetes mellitus, neuropathy, epilepsy, stroke and traumatic injury to the brain (columns 2, 4, 6, 17-20, and 22)

The patients with the above listed diseases would have the pain syndrome as well associated with the diseases. The administration of Chlerythrine inherently has the amnesiac effect. Lang et al. teach that the chlerythrine suppresses the activation of the Na⁺ channel (page 1, paragraph 0023, 0052-0057). Lang et al. teach treatment of

Art Unit: 1646

epileptic seizure with kinase inhibitors (page 2, paragraph 0028). Lang et al. teach diagnosing of epilepsy, hypertension, fibrosing pancreatitis, radiation fibrosis, scleroderma, cystic fibrosis, chronic bronchitis using tissues of brain, Alzheimer's disease, cirrhosis of the liver, Crohn's disease, fibrosing pancreatitis and pulmonary fibrosis, arteriosclerosis, diabetic nephropathy.

Claim Rejections - 35 USC § 103

5. Claims 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Thiam et al.(FEBS Letter, 1999) with evidence by Lang et al. (US 2005/0064501).

The teachings of Ghosh et al. with evidence of Lang et al. has been set forth above. Ghosh et al. does not teach the myristoylation pseudosubstrate peptide.

Thiam et al teach the method of administering palmitoylated modified PCK- ζ pseudosubstrate lipopeptides on HL60 human cells (page 286 and figures 1-3). The claims method step requires administration of a therapeutically effective amount which is met by concentration of 10 μ M (page 287-288). The palmitoylated peptide is a subgenus of myristoylation peptide meeting the claim limitation of claim 13.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Ghosh et al. by substituting the myristolated pseudosubstrate peptide of Thiam et al. One of ordinary skill in the art would have been motivated to modify the method of Ghosh et al. because Ghosh et al. explicitly consider chelerythrine, Staurosporine or other kinase inhibitors and pseudosubstrate peptide of

Art Unit: 1646


Thiam et al. is a kinase inhibitor. Furthermore, one of ordinary skill in the art would have been motivated because Thiam et al. is an analogous art with Lang et al. because both use kinase inhibitors.

6. No claims are allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pak whose telephone number is 571-272-0879. The examiner can normally be reached on 8:00 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michael Pak
Primary Patent Examiner
Art Unit 1646
12 June 2006